

USDC SDNY DOCUMENT ELECTRONICALLY FILED DOC #: _____ DATE FILED: 9/14/2021
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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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JUAN RAMOS and SANTA MUNOZ, individually and	:
on behalf of others similarly situated,	:
	:
Plaintiffs,	:
	:
-against-	:
	:
EL VALLE 3452 RESTAURANT INC., VICTORIA	:
MARINE, JOSE GUERRA, and JOSE LUIS DIAZ,	:
	:
Defendants.	:
	:
-----	X

1:21-cv-03936-GHW

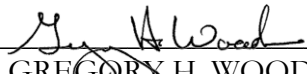
ORDER

GREGORY H. WOODS, District Judge:

The Court has received the parties' September 14, 2021 proposed stipulation of discontinuance (the "Stipulation"). Dkt. No. 26. The parties are reminded that under the Second Circuit's decision in *Cheeks v. Freeport Pancake House*, 796 F.3d 199 (2d Cir. 2015), a case brought under the Fair Labor Standards Act cannot be dismissed with prejudice without the consent of the Court. Accordingly, because the Stipulation does not specify whether the action is being dismissed with prejudice, the Court declines to enter the Stipulation. In addition, the Stipulation does not provide the specific rule under which the "discontinuance" is proper. Therefore, the parties are invited to file a new stipulation that provides the rule under which dismissal is proper and that specifies whether the dismissal is with prejudice. The renewed stipulation is due no later than September 21, 2021.

SO ORDERED.

Dated: September 14, 2021
New York, New York


GREGORY H. WOODS
United States District Judge